

## Oklahoma Statutes Citationized

### Title 43A. Mental Health

#### Chapter 1 - Mental Health Law of 1986

##### Oklahoma Alcohol and Drug Abuse Services Act

###### Section 3-428 - Intoxicated Person in Public Place - Assistance - Protective Custody - Detention

Cite as: O.S. §. \_\_ \_\_

A. An intoxicated person in a public place, as defined in Section 8 of Title 37 of the Oklahoma Statutes, who appears to be in need of help, if the person consents to the offered help, may be assisted to:

1. His or her home;
2. An alternative facility pursuant to the provisions of this section; or
3. An approved treatment facility by a peace officer or an emergency service patrol.

B. 1. A person who appears to be intoxicated, and as a result of such intoxication is unconscious in a public place or reasonably appears to be in danger of harming himself or herself or others, may be taken into protective custody by a peace officer or an emergency service patrol and immediately brought to an approved treatment facility for medical or nonmedical detoxification.

2. The peace officer or the emergency service patrol, in detaining the person and taking the person to an approved treatment facility, is taking the person into protective custody and shall make every reasonable effort to protect the person's health and safety.

3. In taking the person into protective custody, the detaining officer may take reasonable steps for self-protection. No record shall be made which indicates that the person has been arrested or charged with a crime.

C. 1. If the Department of Mental Health and Substance Abuse Services, or the governing body of any municipality, has approved a program alternative to statutory or municipal requirements of prosecution and imprisonment of such person, until the capacity to accommodate intoxicated persons has been exceeded in the facility wherein such alternative program is located, the arresting officer and other public officials involved in an arrest pursuant to this section shall utilize such alternative treatment program upon the voluntary approval of the intoxicated person and the receiving facility rather than proceed under the statutory or municipal laws pertaining to prosecution and imprisonment of intoxicated persons.

2. A facility in which the program is located may make application to the Department of Mental Health and Substance Abuse Services for approval, but no such program or facility wherein such program is located shall claim or advertise to be a certified treatment facility unless duly certified as such by the Department of Mental Health and Substance Abuse Services.

3. All facilities acquiring the approval of an alternative program shall establish their own capacity for the number of persons to be accommodated in the program.

4. It shall be the duty of the **State Department of Health** to investigate all complaints concerning general sanitation made in the form of a sworn affidavit against such municipally approved alternative facilities.

5. In event the complaints are found to be true, the State **Commissioner of Health** shall have the power to order improvements or closure.

D. A person who is brought to an alternative facility or an approved treatment facility may be admitted as a consumer by the administrator in charge of the facility or referred to another treatment facility.

E. 1. A person may not be detained at the approved treatment facility when the person either is no longer unconscious, or no longer appears likely to be of harm to self or others.

2. If the person remains unconscious or likely to harm himself or herself or others, the person may be detained for no more than twelve (12) hours, excluding weekends and legal holidays, after admission unless a petition for an order directing the commitment of the person to an approved treatment facility has been filed according to the Mental Health Law provisions and procedures for commitment. The person may consent to remain in the facility as long as the administrator or physician in charge believes appropriate.

F. If a person is admitted to an approved treatment facility under this section, the person may notify relatives of the admission or another person may, with the consent of the admittee, notify relatives of the admission.

### **Historical Data**

Laws 1978, SB 280, c. 64, § 10; Amended by Laws 1986, HB 2021, c. 103, § 47, eff. November 1, 1986; Renumbered from [63 O.S. § 2127](#) by Laws 1986, HB 2021, c. 103, § 104, eff. November 1, 1986; Amended by Laws 1990, SB 866, c. 51, § 84, emerg. eff. April 9, 1990; Amended by Laws 2005, HB 1845, c. 150, § 20, emerg. eff. May 9, 2005 ([superseded document available](#)).

### **Citationizer® Summary of Documents Citing This Document**

Cite Name	Level	
Oklahoma Court of Criminal Appeals Cases <a href="#">Cite</a> <a href="#">2008 OK CR 22, 189 P.3d 726</a>	Name <a href="#">CITY OF NORMAN v. TAYLOR</a>	Level Discussed at Length

***Citationizer: Table of Authority***

Cite Name	Level	
<b>Title 43A. Mental Health</b>		
Cite <a href="#">43A O.S. 3-428</a> ,	Name <a href="#">Intoxicated Person in Public Place - Assistance - Protective Custody - Detention</a>	Level <span style="color: red;">Cited</span>